



4/1/10 letter:
Response letter -
- Bill letter -



Building • Engineering • Planning

March 25, 2009

Ms. Carol Cambell
Assistant Regional Administrator
US EPA Region 8
80C-EISC
1595 Wynkoop St
Denver, CO 80202-1129

Dear Ms. Cambell:

I would like to thank you and your staff for meeting with Park City representatives to discuss the plans for Lower Silver Creek (LSC) and the city's current development agreements with United Park City Mines. Although there appears to be discrepancies regarding the Silver Creek Watershed priorities, I am very pleased that the opportunity for dialogue has been open for future discussions.

As stated during the meeting the LSC stakeholders consist of mainly the same entities of the Upper Silver Creek stakeholders with a few exceptions. As a result, the city is not against consolidating these entities for the Lower Silver Creek clean-up. This coincides with the initial charter that the Lower Silver Creek Stakeholder's agreed too in regards to pursuing a remedy for this area of the watershed. The success the city and USEPA has had with the Upper Silver Creek Watershed is directly related to regulatory flexibility and allowing creative ideas to be employed that are currently working without the CERCLA stigma.

At the conclusion of the meeting, you conveyed that there were some UPDES permitting issues that you felt needed addressed. One of which was the biocell wetland treatment system, that was constructed to treat water originating from the Prospector Park drain outfall. The biocell has been a five year effort, with four of those years consisting of operating and monitoring a pilot unit, to determine if natural anaerobic treatment effectively removed metals from the shallow groundwater. During that time, USEPA and UDEQ were kept abreast of the results and finally in 2006 a budget was approved by City Council to construct a full scale unit. At the same time, Park City was concerned of what type of regulatory scrutiny the biocell would have, therefore a meeting was held March 15th 2006 with Kathy Hernandez, Peggy Churchill and Bert Garcia. At that time the city conveyed to USEPA that the biocell would not be constructed unless the treatment unit would be considered a best management practice and not a UPDES permitting issue. After the meeting, USEPA officials all mutually agreed that the biocell would be a real time benefit to the watershed and would be considered a BMP. Due to that agreement, the city invested \$450,000.00 into the construction of the biocell which to date has been successful in treating the Prospector Park outfall. A summary of this meeting and the associated mutual agreement is attached letter (Kathy Hernandez 3/29/06). Because of this mutual understanding, the city will anticipate that USEPA will honor this agreement. I might add that by recognizing the cell as a BMP within the watershed will allow other property owners the opportunity to construct a similar treatment unit.

Lastly, regarding the Silver Creek TMDL the city stands by the formal comments that were submitted to UDEQ and USEPA in 2004 which identified discrepancies with the final version. The city position can be summarized in two points. First the TMDL as written failed to factor naturally occurring background

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Bill M
Kathie A
Karen H
Copy 9 -
Kathie H

levels when calculating the effluent limits within the TMDL. Referencing 40 CFR 130.2 (i), the federal definition of total maximum daily load (TMDL) is defined as *"The sum of the individual WLAs for point sources and LAs for nonpoint sources and natural background..."*. As documented in PCMC Silver Creek TMDL comments dated March 12th 2004, naturally occurring zinc levels within the area of PCMC have found within the soils as high as 74 ppm (USGS). Because naturally occurring zinc and cadmium levels were not considered in the TMDL that was submitted to USEPA, the City believes the current document and effluent limits are not complete because of this omission. Secondly, PCMC requested that the actual hardness averages be used for calculating the zinc and cadmium chronic water quality standard. Or the pursuit of grant funding to fund a Water Effect Ratio study to demonstrate the actual toxicity based on ambient hardness. PCMC position is based on internal water quality sampling results that reveal hardness concentrations twice as much as what was used in the effluent limit calculation. PCMC understands that zinc and calcium carbonate (hardness) compete in regards effecting water toxicity, the hardness levels exhibited in Silver Creek are at levels that have the potential of displacing zinc thereby lowering the toxicity. As a result, PCMC believe the effluent limits should reflect the actual high hardness value exhibited in Silver Creek. Because of these discrepancies, PCMC and UDEQ have an agreement that the TMDL endpoint thresholds will not be enforced until these important factors are considered in the TMDL (Walter L. Baker Acting Director 8/16/04).

With that stated, again I thank you for your time and consideration for the meeting with us and I look forward to a continued dialogue with USEPA and priorities within the Silver Creek watershed.

Sincerely,



Tom Bakaly
City Manager

Attachment: USEPA Kathy Hernandez March 29th 2006, UDEQ Walter L. Baker Acting Director August 16th 2004.

CC: Mayor Williams
Ron Ivie
Mark Harrington
Tom Daley
Jerry Gibbs
Kathy Lundborg
City Council
Mo Slam
John Whitehead
Karee Lundeen
Jeff Schoenbacher

JTS:



State of Utah

Department of
Environmental QualityDianne R. Nielson, Ph.D.
Executive DirectorDIVISION OF WATER QUALITY
Walter L. Baker, P.E.
Acting DirectorWater Quality Board
Ray M. Child, Chair
Douglas E. Thompson, Vice-Chair
Robert G. Adams
David F. Echols
Neil E. Knochenour
Dianne R. Nielson
Jay Jean Olsen
Joe Piccolo
Ronald C. Sims
J. Ann Weidner
Walter L. Baker
Acting Executive SecretaryOLENS F. WALKER
GovernorGAYLE F. McKEACHNIE
Lieutenant Governor

August 16, 2004

Mr. Ren Ivic
Park City Municipal Corp
445 Marsac Avenue
P.O. Box 1480
Park City, UT 84060-1480

Dear Mr. Ivic:

Subject: Silver Creek TMDL

Thank you for the opportunity to meet with you and Jeff Schoenbacher on July 8th to continue our discussions on aspects of the Silver Creek TMDL. Based on our meeting, we agreed to jointly pursue a process involving developing a supplemental study to investigate the following items:

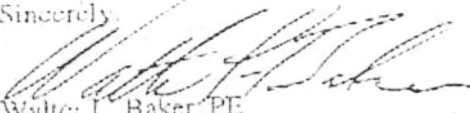
1. Further examine the water chemistry (hardness, pH, etc.), fish, macro-invertebrates, and other related biota of Silver Creek to validate existing water quality standards or determine if a site specific water quality standard is appropriate for zinc and cadmium and what those standards should be.
2. Attempt to determine "background" or "baseline" conditions that reflect water quality values with minimal or without human induced impacts through supplemental monitoring and/or location of additional data.
3. Evaluate the technical and economic feasibility of achieving water quality standards for zinc and cadmium, given the widespread historical mining impacts. This will include an investigation led by PCMC of treatability, along with associated costs, for metals of concern and identification of available funding sources for implementation.

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We are in the process of researching and developing a study design for the above items. It is our intention to provide you with a draft study design for your review and comment once it is completed. Once the study design is complete, we would appreciate PCMC's commitment to assist in securing the needed financial resources (e.g. grants) to undertake the study.

In our meeting you requested that the Division of Water Quality provide assurances that effluent limits for metals on point source permits issued to Park City Municipal Corp. for discharges into the Silver Creek Watershed not be imposed until the additional study is completed and water quality standards for Silver Creek are either validated as is or revised based on the outcome of the study. We believe the discharge from the Judge Mine Tunnel is clearly a point source discharge and should receive a UPDES permit with appropriate metals limits. However, until the noted study has been completed, we do not feel it would be appropriate to impose limits that would be dictated by current water quality standards that are included in the recent TMDL. Instead we prefer to work with PCMC to establish reasonable interim limits that recognize the uncertainties you have indicated in your correspondence and our prior meetings. Such permits will include language in the Statement of Basis portion of the permit describing any defined studies underway and the potential impacts to the permit limits based on the outcomes of those studies. We look forward to working with PCMC in this process and appreciate our mutual commitment to support the outcome of the studies.

Sincerely,


Walter L. Baker, PE
Acting Director

c.c. Representative David Ure

Silver Creek TMDL
jwhithead/wp/Silver Creek/PCMC Ltr1

2nd letter
Oct 27 2004 PC sent letter
"inactivate permit"
State said no need for permit
at this time.
EPA did not concern
2009 - State told PC
that they would have
to pay for
translator



Office of The Mayor
Dana Williams

March 2, 2006

Peggy Churchill
Remedial Project Manager
U.S.E.P.A., Region 8
999 18th Street, Suite 300
Denver, CO 80202-2465

RE: Biocell Proposal Comments

Dear Ms. Churchill:

The purpose of this correspondence is to communicate Park City Municipal Corporation's (PCMC) position on the biocell proposal that Park City and Dr. Fitch presented to the Silver Creek Stakeholder Group on January 13th 2006.

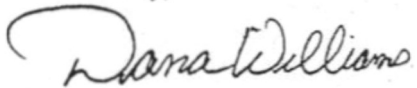
I would like to reiterate that the City remains committed to working within the stakeholder process for solving Silver Creek water quality impacts. Please see the attached summary of our responses to the biocell questions posed by the stakeholder members. Based on the comments received, PCMC does not believe there is enough support from USEPA, BLM, FWS, or UDEQ to move forward with the biocell project. Therefore, the City is willing to withdraw this proposal and participate in other feasible options that the stakeholders would prefer to pursue. To facilitate that goal, PCMC looks forward to future stakeholders meetings and discussions that have the potential of discovering common ground for improving the watershed. It remains the City's position that the proposed biocell project would have been a positive component to the watershed.

On a related matter, the Prospector Drain was not constructed as a public improvement nor does the City believe it "owns" the conveyance. There are some stakeholders that have insinuated that the City is the cause of historic mining impacts. However, similar to other stakeholders, the City inherited these environmental concerns that are currently being managed. Despite this position, the City has made every effort to work with the stakeholders group to find mutual ground to move forward and has invested \$5.8 million dollars in actual environmental remediation efforts within Silver Creek and East Canyon Creek Watershed. For this particular project, the City devoted resources for 27 months of sampling and monitoring and has retained excellent expertise for this wetland design.

Based on the comments submitted to the City, it appears that members of the stakeholders group would prefer a solution that meets the TMDL effluent limit standards. PCMC has never promoted this biocell proposal as an effort to meet the Silver Creek TMDL effluent limits. Furthermore, the City went on record on March 3rd 2004 with formal comments to UDEQ (John Whitehead) defining the reasons the TMDL effluent limit was unattainable. As a result, PCMC will not accept such restrictive standards for a situation that is not managed by the City.

The City would like to thank the respondents for their consideration in providing the City with the comments. I look forward to our meeting on March 15th 2006 when we can discuss other feasible options. As I have consistently communicated, the City is committed to practical solutions that improve water quality within the Silver Creek watershed. But if the consensus is to impose a TMDL effluent limit to this project, the City has no desire to attempt to achieve what we think is an unachievable goal. Thank you again for your consideration and the City looks forward to future discussions with the stakeholders group.

Sincerely,



Dana Williams, Mayor
Park City Municipal Corporation

Enc. Park City Municipal Corporation – Response Summary and Dr. Fitch's Comments

CC: Representative David Ure, District 53
City Council
Tom Bakaly, City Manager
Bert Garcia, United States Environmental Protection Agency
Dr. Brian Caruso, USEPA via email - Caruso.Brian@epamail.epa.gov
Dan Wall, USEPA via email - Wall.Dan@epamail.epa.gov
Dr. David Reisman, USEPA via email - Reisman.david@epa.gov
Mo Slam, Utah Department of Environmental Quality
John Whitehead, Utah Department of Environmental Quality
Henry Maddux, U.S Fish and Wildlife Service
Chris Cline, U.S Fish and Wildlife Service via email Chris_Cline@fws.gov
Glenn Carpenter, U.S. Bureau of Land Management
Bill Duncan, Nature Works Remediation
Al Mattes, Nature Works Remediation
Dr. Mark Fitch, University of Missouri Rolla – Engineering Department
Ron Ivie, Park City Building Official
Mark Harrington, Park City Attorney's Office
Jeff Schoenbacher, Park City Municipal Corporation

JTS:

March 29, 2006

Kathy Hernandez
U.S.E.P.A., Region 8
999 18th Street, Suite 300
Denver, CO 80202-2465

RE: March 15th 2006 Meeting Summary

Dear Ms. Hernandez:

I would like to thank you for meeting with us on March 15th to discuss the Upper Silver Creek Watershed issues. We were encouraged to hear that the agency supports the possible construction of the biocell project as a best management practice (BMP) for treating the zinc and cadmium which originate from the Prospector Drain (PD).

Based on the meeting, PCMC would like to confirm some of the items discussed:

- USEPA would like to provide additional technical information to the stakeholders to ensure all options have been explored. The City would prefer that the USEPA take the lead role in drafting such a document, with PCMC acting as an informational resource for the pilot unit that was constructed in 2004 and other background information.
- During the meeting we discussed considering the biocell within the Silver Creek Watershed a Best Management Practice (BMP). PCMC is in agreement that the biocell should be considered a BMP within the Silver Creek Watershed. We welcome your assistance in addressing the TMDL effluent limit issues.
- The City has requested that a hard copy of the Richardson Flat's ROD with attachments be sent so it can be recorded as a historic reference for this site.
- Lastly, regarding the issue of outstanding parcels within Old Town that have tested high for lead, PCMC would request that the locations of these properties be identified so a determination can be made whether they are within the boundary. The City theorizes that this is in reference to properties on Marsac Avenue, however we are not sure. Once this information is obtained the City will provide you with a response that states the specific location of the properties in relation to the boundary of the soils ordinance district.

work in the State

With that stated, again I thank you and Peggy for your time and we are encouraged by USEPA Region 8 position on the biocell proposal. I look forward to working with you and pursuing positive improvements within the Silver Creek Watershed that offer real time solutions.

Sincerely,

Tom Bakaly
City Manager

Enc. PD Drain Summary
Pilot Summary
Park City Municipal Corporation – Response Summary and Dr. Fitch's Comments

CC: Mayor Williams
City Council
Peggy Churchill, United States Environmental Protection Agency
Bert Garcia, United States Environmental Protection Agency
Ron Ivie, Park City Building Official
Mark Harrington, Park City Attorney's Office
Jeff Schoenbacher, Park City Municipal Corporation

JTS:



Office of the Manager

March 29, 2006

Kathy Hernandez
USEPA Region 8
909 18th Street, Suite 300
Denver, CO 80202-2468

RE: March 15th 2006 Meeting Summary

Dear Ms. Hernandez:

I would like to thank you for meeting with us on March 15th to discuss the Upper Silver Creek Watershed issue. We were encouraged to hear that the USEPA is supporting construction of the proposed project as a best management practice (BMP) to improve water quality in the watershed from the Prospect Drain (PD).

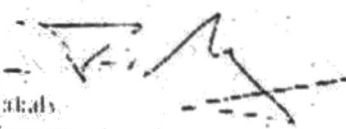
Based on the meeting, PCMC would like to request the following items be discussed:

- USEPA would like to provide guidance to the landholders to ensure all options have been explored. The City would like to ask if USEPA take the lead role in drafting such a document with PCMC acting as a consultant and advisor to the project that was constructed in 2004 and the proposed development.
- During the meeting we discussed the need for a Best Management Practice (BMP) within the Silver Creek Watershed. We would like to see guidance in addressing the TMDL effluent limit issues.
- The City has requested that a final copy of the Richardson Road ROD with attachments be sent so it can be recorded as a public document in the city.
- Lastly, regarding the issue of outstanding properties within the Town that have tested high for lead, PCMC would request that the local residents be notified so a determination can be made whether they are within the boundary. The City manager says that this is in reference to properties on Marsac Avenue, however we are not sure. Once this information is obtained the City will provide you with a response that states the specific location of the properties in relation to the boundary of the soils problem area.

March 29, 2006
Page Two

With that stated, again I thank you for Page 1 of the letterhead by US EPA Region 8 position on the brook proposal. I would like to see all the positive improvements within the Silver Creek Watershed that are being made.

Sincerely,


Tom Rakaly
City Manager

Enc. PD Draft Summary
Pilot Summary
Park City Municipal Corporation Report Summary and City Council Comment

CC: Mayor William
City Council
Peggy Churchill, United States Forest Service, Park City Agency
Bert Garcia, United States Forest Service, Park City Agency
Ron Ivie, Park City Building Official
Mark Harrington, Park City Agency, City
Jeff Schoenbachler, Park City Municipal Corporation

JLS